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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,903	06/26/2003	Wallace L. Kurtz JR.	05918-234001	5682
26161	7590	12/27/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EASHOO, MARK	
			ART UNIT	PAPER NUMBER
			1732	
DATE MAILED: 12/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,903

Applicant(s)

KURTZ ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 18-28, 30-40 and 47-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 29 and 41-46 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3 ea.</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1732

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-17, 29, and 41-46 in the reply filed on 28-SEP-2005 is acknowledged.

Claims 18-28, 30-40, 47-77 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 28-SEP-2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the phrase "wave-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "wave-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Objections

Claim 29 is objected to because of the following informalities: Claim 29 is in improper dependent form because it depends from a non-elected claim. It is recommended that applicant cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1732

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Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumlik (US Pat. 3,655,855) in view of Provost (US 2003/0034583 A1).

Regarding claims 1-2, 4, 6: Brumlik teaches the basic claimed process of forming a fastener product, comprising: providing a continuous sheet base having molded fastener elements extending outwardly in rows (Fig. 1); hook shaped fastener heads (Fig. 2); twisting fastener filaments individually to reorient the fastener elements in multiple directions from a common core (Figs. 3 and 3A); and twisting at least two filaments together to form a yarn (Figs. 3 and 3A). It is noted the instant claim limitation regarding twisting is broad and encompasses the structure shown in Figs. 3 and 3A which substantially teach that "individual filaments" are in a twisted/helical orientation within a yarn structure.

Brumlik does not teach longitudinally splitting a base sheet in adjacent rows of fastener elements. However, Provost teaches longitudinally splitting a base sheet in adjacent rows of fastener elements or tapes (Fig. 3, element 210). At the time of invention a person of ordinary skill in the art would have found it obvious to split a base sheet in adjacent rows of fastener elements to a desired width, as taught by Provost, in the process of Brumlik, and would have been motivated to do so since Provost suggests that slitting a base sheet having an array of fasteners thereon is an equivalent and alternative means of making a fastener tape/filament.

Regarding claim 5: Although Provost does not teach that tape/filament having only a single row thickness may be formed, it is noted that Brumlik teaches that the filaments should be formed in "very thin sections" (2:65-72). Furthermore, Brumlik is silent with regard to the criticality of fastener being required on both sides of the web. As such, it is submitted that a person of ordinary skill in the art would have reasonable expectation of success using a very thin section of web from Provost in the process of Brumlik for substantially the reasons set forth above.

Regarding claim 7-13: Brumlik further teaches depositing twisted filaments onto a surface/substrate (1:55-67 and 3:45-55). Brumlik also teaches felting (1:55-67 and 3:45-55), which is a random and predetermined pattern. Since instant claim 10 does not state the degree of wavy-ness, it is submitted that some of the fibers in a felt appear to be in a "wave-like" pattern. Brumlik also teaches applying a woven fabric to a surface which is a pattern that comprises some yarns that approximates parallel lines (Fig. 4).

Regarding claims 3 and 14-17: Provost further teaches forming mushroom heads by molding stems on a sheet, using a mold roll, and then deforming heated stem portions into mushroom shaped heads (Figs. 10-12). Provost would have been combined with the process of Brumlik for substantially the reasons set forth above.

Art Unit: 1732

Claims 29 and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumlik (US Pat. 3,655,855) in view of Provost (US 2003/0034583 A1) and Applicant's admitted prior art (US 2004/0261232 A1) when taken with the definition of felting (Dictionary.com/felting).

Regarding claims 29, 41-46: Brumlik teaches the basic claimed process of forming a fastener product, comprising: providing a continuous sheet base having molded fastener elements extending outwardly in rows (Fig. 1); hook shaped fastener heads (Fig. 2); twisting fastener filaments individually to reorient the fastener elements in multiple directions from a common core (Figs. 3 and 3A); and twisting at least two filaments together to form a yarn (Figs. 3 and 3A). Brumlik also teaches adhesive bonding (3:45-55). It is noted the instant claim limitation regarding twisting is broad and encompasses the structure shown in Figs. 3 and 3A which substantially teach that "individual filaments" are in a twisted/helical orientation within a yarn structure.

It is submitted that the felting process taught by Brumlik implicitly requires that the twisted filaments/yarns are cut to some degree of discrete length and if not then it would have been obvious to do so using conventional felting processes that use staple fibers/filaments. Furthermore, it is submitted that a "felt" as taught by Brumlik and conventional understood in the art is a "type" of a non-woven web material.

Brumlik does not teach longitudinally splitting a base sheet in adjacent rows of fastener elements. However, Provost teaches longitudinally splitting a base sheet in adjacent rows of fastener elements or tapes (Fig. 3, element 210). At the time of invention a person of ordinary skill in the art would have found it obvious to split a base sheet in adjacent rows of fastener elements to a desired width, as taught by Provost, in the process of Brumlik, and would have been motivated to do so since Provost suggests that slitting a base sheet having an array of fasteners thereon is an equivalent and alternative means of making a fastener tape/filament.

Brumlik does not teach forming a non-woven web by air-laying or carding. However, Applicant's admitted prior art suggest that air-laying and carding are known processes (para. 89). At the time of invention a person of ordinary skill in the art would have found it obvious to form a non-woven web using air-laying or carding, as taught by applicant's admission, in the process of Brumlik, and would have been motivated to do so since applicant's admission suggests that such process are an equivalent and alternative means to forming a felt-like structure.

Brumlik does not teach forming a non-woven web comprising cellulosic or thermoplastic fibers. However, the definition of felting (dictionary.com/felting) teaches that felting sometimes comprises blends of fibers including vegetable and synthetic fibers. At the time of invention a person of ordinary skill in the art would have found it obvious to form a non-woven comprising a blend of fibers including vegetable and synthetic fibers, as commonly practiced in the art, in the process of Brumlik, and would have been motivated to do so in order to form a non-woven/felt material having certain desired properties that require such fiber blend.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

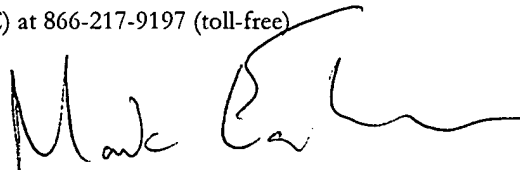
Art Unit: 1732

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)



Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

December 21, 2005
me

21/Dec/05